

REMARKS

This Reply is in response to the Final Office Action mailed on December 5, 2006 in which Claims 1, 6-17, 21-25, 28-31, 35, 36, 38-40 and 42-63 were rejected. With this response, 6, 8, 10, 12, 17, 21-24, 35, 45-48, 50-51, 54-55, and 58-59 are cancelled; Claims 1, seven, 9, 11, 13- 16, 25, 29-31, 36, 38-40, 43-44, 49, 52-53, 61 and 63 are amended; and Claims 64-74 are added. Claims 1, 7, 9, 11, 13-16, 25, 28-31, 36, 38-40, 42-44, 49, 52-53, 56, and 60-74 are presented for reconsideration and allowance.

I. Examiner Interview Summary.

On March 3, 2006, a telephonic interview was held between Examiner Will and Applicant's attorney, Todd A. Rathe. The rejections of the claims were discussed. Examiner Will suggested that the claims be revised to distinguish over other prior art such as hand mixers. Although no agreement was reached, Applicants wish to thank Examiner Will for the opportunity to discuss the rejections and for Examiner Will's suggestions for amending the claims to better distinguish over the prior art.

II. Rejection of Claims 17, 35, 38-40, 55 and 59 under 35 U.S.C. 112, .Second Paragraph

Paragraph 2 of the Office Action rejected Claims 17, 35, 38-40, 55 and 59 under 35 U.S.C. § 112, second Paragraph. Claims 17, 35, 55 and 59 are canceled. Claims 38-40 are amended to depend from Claim 66. Claims 38-40, as amended, overcome the rejection under 35 U.S.C. § 112, second Paragraph.

III. Rejection of Claims 17, 21-22, 24, 45-47, 51, 54-55 and 58-59 Based upon Hall

Paragraph 4 of the Office Action rejected Claims 17, 21-22, 24, 45-47, 51, 54-55 and 58-59 under 35 U.S.C. 102(b) being anticipated by Hall US 3,203,653. With this response, Claims 17, 21-22, 24, 45-47, 51, 54-55 and 58-59 are canceled, rendering the rejection moot.

IV. Rejection of Claims 1, 6-16, 23, 25, 28-31, 36, 42-44, 49-50, 52-53, 26-57 and 60-63 Under 35 USC Section 103(a) Based Upon Wadzinski and Hall

Paragraph 6 of the Office Action rejected Claims 1, 6-16, 23, 25, 28-31, 36, 42-44, 49-50, 52-53, 56-57 and 60-63 under 35 USC section 103(a) as being unpatentable over Wadzinski US 5,784,868 in view of Hall US 3,203,653. With this response, Claims 6, 8, 10, 12, 23, 50, 54-55 are canceled and Claims 1, 7, 9, 11, 13-16, 25, 36, 43-44, 49, 52-53, 61 and 63 are amended. Claims 1, 7, 9, 11, 13-16, 25, 28-31, 36, 42-44, 49, 52-53, and 60-63, as amended, overcome the rejection.

A. Claim 1

Claim 1, as amended, recites a power appliance which includes a frame, wheels movably supporting the frame, a blade movably supported by the frame, a substantially horizontal handle extending along a first axis and coupled to blade, a kill bar having an end portion extending along a second axis and pivotable about a third axis parallel to the first axis and the second axis. The appliance further includes a layer of compressible material partially extending about one of the handle and the kill bar to form a channel extending parallel to the first axis and the second axis. The channel is located and oriented to receive the other of the handle and the kill bar without substantial deformation of the layer when the kill bar is in the first position.

Neither Wadzinski nor Hall, alone or in combination, disclose or suggest a powered appliance having a frame, wheels movably supporting the frame, a blade movably supported by the frame, a substantially horizontal handle extending along a first axis and coupled to the blade, a kill bar having an portion extending along a second axis parallel to the first axis and pivotable a body third axis parallel to the first axis and the second axis and a layer of compressible material which partially extend about one of the handle and the kill bar to form a channel extending parallel to the first axis and the second axis so as to receive the other of the handle and the kill bar when the kill bar is pivoted proximate the handle. In contrast, Wadzinski merely discloses a lawn mower having a bail 20. As acknowledged in the Office Action,

Wadzinski fails to disclose a bail 20 as being formed from a compressible or flexible material. As a result, the office action attempts to additionally rely upon hall.

However, Hall merely discloses an insulator 14 for a fixture, such as water pipe 10. Insulators for fixtures, such as water pipes, are not analogous art to powered appliances. In particular, water pipes are not analogous art to powered appliances having a frame that is movably supported by wheels, a substantially horizontal handle, a substantially horizontal pivotable kill bar and a blade. Nowhere does Wadzinski even suggest the addition of a fixture insulator to handle 10 or bail 20. Nowhere does Hall mentioned or suggest that disclose insulator 14 may be added to a powered appliance having a kill bar such as a lawnmower as provided in Wadzinski. The hypothetical modification of the lawnmower of Wadzinski to somehow include the pipe insulator of Hall appears to be based upon impermissible hindsight reasoning combining non-analogous art to render Applicants' invention.

Moreover, even assuming, arguendo, that one of ordinary skill in the art would be led to add the pipe insulator of Hall to the lawnmower of Wadzinski, the resulting combination would still fail to result in a compressible layer partially extending about one of a handle and a kill bar to form a channel that is located and oriented to receive the other of the handle and the kill bar when the kill bar is pivoted to a position proximate the handle. Although the pipe insulator of Hall appears to have opposed edges 21 and 22, nowhere does Hall suggest that the inner diameter of insulator 14 should be sized such that edges 21 and 22 of the insulator 14 of Hall are sufficiently spaced to receive either a handle or a kill bar of powered appliance.

Furthermore, even if edges 21 and 22 of the insulator 14 of Hall happened to be sufficiently spaced to receive a handle or a kill bar of a powered appliance, nowhere does Hall teach anything about the orientation or positioning of insulator 14 on a handle or a kill bar of a powered appliance. In other words, even if one of ordinary skill in the art were to mount insulator 14 upon the handle or bail of the lawnmower of Wadzinski, there is no teaching or suggestion that opposing edges 21, 22 must be angularly oriented so as to receive the other of the handle and the kill bar when the kill bar is pivoted to a positioned proximate the handle. Again, the

hypothetical combination proposed in the Office Action to reject Claim 1 appears to be based upon impermissible hindsight reasoning using Applicants' own patent disclosure as a blueprint. Accordingly, Claim 1, as amended, overcomes the rejection. Claims 7, 9, 11, 13-16, 49, 52-53 depend from Claim 1 and overcome the rejection for the same reasons.

B. Claim 25

Claim 25, as amended, is directed to a method for equipping and operating a powered appliance including a frame, wheels supporting the frame, a blade, a handle coupled to the blade and a pivotable kill bar. The method includes a step providing a tube having a compressible outer surface, an inner cavity and an opening communicating with the cavity. The method includes inserting one of the handle and the kill bar through the opening into the inner cavity. The method further involves moving the kill bar to a position adjacent the handle such that at least a portion of the kill bar is within the opening and is surrounded by the outer surface.

Neither Wadzinski nor Hall, alone or in combination, disclose or suggest a method in which either a handle or a kill bar of a powered appliance is inserted through an opening of a tube such that the kill bar may be pivoted proximate to the handle with the kill bar being located within the opening. As noted above, in combination of the lawnmower of Wadzinski and the pipe insulator of Hall is improper in that the two patents relate to completely non-analogous art.

Moreover, even, assuming arguendo, that some suggestion existed for providing the lawnmower of Wadzinski with the pipe insulator of Hall, the resulting combination would still fail to teach a method in which the handle or kill bar in the lawnmower of Wadzinski is inserted through an opening in the pipe insulator and further such that the same opening is specifically oriented or located to receive either the handle or the kill bar when the kill bar is pivoted to a position proximate the handle. Accordingly, Claim 25, as amended, overcomes the rejection based upon Wadzinski and Hall. Claims 28-31 and 60-61 depend from Claim 25 and overcome the rejection for the same reasons.

C. Claim 36

Claim 36, as amended, recites a method for equipping and operating a powered appliance including a frame, wheels supporting the frame, a blade, a handle coupled to the blade and pivotable kill bar. The method includes providing a flexible member having first and second opposite ends, wrapping the flexible member about one of the handle and the kill bar so as to space the first and second ends from one another to form a gap therebetween and securing the first and second ends relative to one another.. The method also involves moving the kill bar to position the other of the handle and the kill bar within the gap.

Neither Wadzinski nor Hall, alone or in combination, disclose or suggest a method of equipping and operating a powered appliance having a frame, wheels supporting the frame, a blade, a handle and a pivotable kill bar, wherein a flexible member is wrapped about one of the handle and the kill bar so as to space first and second ends of the flexible member from one another to form a gap that receives the other of the handle in the kill bar when the kill bar is pivoted to a position proximate to the handle. As noted above, the hypothetical combination of Wadzinski and Hall is improper because such references relate to not analogous art. One of ordinary skill in the art of outdoor power equipment would clearly not consult art relating to pipe insulators. Thus, the rejection of Claim 36 is improper for this reason alone.

Moreover, even assuming, arguendo, that would be obvious to modify the lawnmower of Wadzinski based on the pipe insulator of Hall, the resulting combination would still fail to disclose a method in which a flexible member is wrapped about one of the handle in the kill bar so as to form a gap between opposite ends of the flexible member such that the gap meets both of the following requirements: (1) the gap is sufficiently large to receive the other of the handle and the kill bar and (2) the gap is properly positioned or oriented to receive the other of the handle and the kill bar when the kill bar is pivoted to a position proximate the handle. Because neither reference teaches either of these two requirements, the rejection appears to be based upon impermissible hindsight reasoning using

Applicant's own patent disclosure as a blueprint. Thus, Claim 36, as amended, overcomes the rejection. Claims 38-40, 42-44 and 62-63 depend from claim 36 and overcome the rejection for the same reasons.

V. Added Claims.

With this response, Claims 64-72 are added. Claims 64-72 recite additional features which are further patentably distinguish such claims over the prior art of record.

Claim 64 recite a lawnmower which includes a frame, wheels movably supporting the frame, a blade configured to rotate about a vertical axis, a handle coupled to the frame and a substantially horizontal manual gripping portion, a pivotable kill bar and a compressible layer extending partially about the handle so as to form a channel adjacent to and along the handle. The channel is oriented and sized so as to receive the kill bar when the kill bar is pivoted to a position proximate the handle.

The prior art of record fails to disclose the lawnmower recited in Claim 64. For example, Wadzinski merely discloses a lawnmower having handle 10. Handle 10 does not include a compressible layer that extends partially about handle 10 to form a channel configured to receive the kill bar. As noted above, the pipe insulator of Hall is not properly combinable with the lawnmower of Wadzinski

Moreover, even assuming, arguendo, that it would be obvious to modify the lawnmower of Wadzinski based upon Hall, the resulting combination would still fail to achieve the lawnmower recited in added Claim 64. For example, bail 20 of Wadzinski appears to partially receive handle 10. However, a line that teaches nothing about handle 10 or a structure about handle 10 partially receiving bail 20. Thus, even if one were to add the pipe insulator of Hall to Wadzinski, the pipe insulator 14 of Hall would hypothetically be positioned about bail 20, NOT handle 10. Regardless, as noted above, both references still fail to provide any teaching or suggestion such that the compressible layer forms a channel (1) appropriately sized

and (2) appropriately oriented to receive the kill bar when the kill bar is pivoted proximate to the handle. Thus, added claim 64 is patentably distinct over the prior art of record and is presented for consideration and allowance. Claims 65-72 depend from claim 64 and recite additional features which further distinguish such claims over the prior art of record.

VI. Conclusion.

After amending the claims as set forth above, Claims 1, 7, 9, 11, 13-16, 25, 28-31, 36, 38-40, 42-44, 49, 52-53, 56, and 60-74 are now pending in this application.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

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